

CRIMINAL REVISION NO.826 OF 2007

DATE OF DECISION: SEPTEMBER 11, 2007

Rajinder Kaur

.....Petitioner

VERSUS

Chinu Films and another.

....Respondents

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

PRESENT: Mr. Diwan S. Adlakha, Advocate,
for the petitioner.

Mr. M. S. Virk, Advocate,
for the respondents.

RANJIT SINGH J. (ORAL)

The petitioner is alleged to have purchased one Umatic High Band Camera for a sum of Rs.1,45,000/- from the complainant, who was running the business of Tele Films, Add Films and News Coverage. A sum of Rs.50,000/- was paid in advance and for remaining amount, a post dated cheque No.SB/20 0216101 dated 23.1.1999 was issued by the petitioner. The cheque was drawn on State Bank of Patiala, Industrial Area, Mansa. The cheque, when presented and sent to the drawee bank, the same was returned with the remarks (i) **'payment stopped by the drawer'** (ii) **'insufficient funds'**. After issuing a statutory notice, a complaint was filed by the respondents. On the basis of evidence led, the petitioner was convicted by the trial Magistrate on 19.7.2005

and sentenced to suffer RI for one year and a fine of Rs.5,000/-. The petitioner filed an appeal against the said order, which was dismissed on 27.4.2007. Accordingly, the petitioner was taken in custody to undergo the remaining part of sentence. This order is impugned by the petitioner by way of present revision petition.

During the pendency of this revision petition, it is disclosed that parties have reached a compromise and as such, it should be given effect to. Copy of the compromise is also placed on record as Annexure P-1 alongwith affidavit of the complainant-respondent. On 18.7.2007, while suspending the sentence of the petitioner, this Court forwarded copy of the affidavit and the compromise to Chief Judicial Magistrate, Patiala, for verification. The Chief Judicial Magistrate, through his communication dated 16.8.2007, has now sent his report. The report reveals that Surinder Kumar, respondent, appeared before the Chief Judicial Magistrate and had made a statement that he has reached a compromise with petitioner, Rajinder Kaur. The petitioner has further conceded in his statement before Chief Judicial Magistrate that his claim is satisfied. Surinder Kumar has also verified that compromise, Annexure P-1 and the affidavit filed in the revision petition before this Court to be correct and having been filed by him. His statement to this effect has been recorded.

It can, thus, be said that the parties have resolved their dispute and have reached a compromise. The sentence awarded to the petitioner has already been suspended. Learned counsel appearing for the petitioner has drawn my attention to **Rameshbhai**

Somabhai Patel Vs. Dineshbhai Achalanand Rathi and another,

2005 Cril.L.J. 431, whereby conviction of the accused therein was set-aside and revision allowed on the basis of compromise. It is further held that effect of compounding of offence would be that of acquittal. Reliance is also placed on Supreme Court judgment titled as **O.P.Dholakia Vs. State of Haryana,** 2001 (1) RCR (Crl.) 638. As per Section 147 of the Negotiable Instrument Act, the offence punishable under Section 138 of the Act has been made compoundable. Thus, the court, in such offences, can compound the offences under the Negotiable Instrument Act notwithstanding anything contained in the Code of Criminal Procedure. When the offence alleged is made compoundable, even no formal permission to compound such an offence is needed.

In view of the position noted above, the conviction and sentence imposed on the petitioner under Section 138 of the Negotiable Instrument Act is hereby set-aside and he is acquitted of the offence, for which he was convicted and sentence.

The petition is accordingly allowed.

September 11,2007

Kfurmi

**(RANJIT SINGH)
JUDGE**